

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

**TIFFANY STEWART,**

Civil No. 09-835-ST

Plaintiff,

**O R D E R**

v.

**CITY OF BEAVERTON, MICHAEL HANADA,  
and CHRISTOPHER FREEMAN,**

Defendants.

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KING, Judge:

The Honorable Janice M. Stewart, United States Magistrate Judge, filed Findings and Recommendation on October 22, 2010. Defendants filed timely objections to the Findings and Recommendation.

When either party objects to any portion of a magistrate's Findings and Recommendation concerning a dispositive motion or prisoner petition, the district court must make a de novo determination of that portion of the magistrate's report. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). This court has, therefore, given de novo review of the rulings of Magistrate Judge Stewart.

This court ADOPTS the Findings and Recommendation of Magistrate Judge Stewart (#51) dated October 22, 2010 in its entirety.

IT IS HEREBY ORDERED that defendants' Motion for Partial Summary Judgment (#30) is GRANTED in part as to the § 1983 claim for violations based on an unreasonable detention, an unlawful search and seizure prior to the alleged assault and on malicious prosecution, as well as to the common law claims for false imprisonment prior to the alleged assault and for malicious prosecution, and otherwise DENIED.

The Court adopts Magistrate Judge Stewart's Findings and Recommendation that the arrest occurred after the assault. As a result, Judge Stewart's Findings and Recommendation regarding whether probable cause supported an arrest prior to the assault are irrelevant. The claims remaining for trial are the § 1983 claim for an unlawful search and seizure based on the alleged

assault and for excessive force and the common law claims for assault and false imprisonment after the alleged assault.

DATED this 7<sup>th</sup> day of December, 2010.

/s/ Garr M. King

GARR M. KING  
United States District Judge